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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CAPITAL LOGISTICS, LLC,

Plaintiff,

-v-

GRAY TRANSPORTATION, INC.,

Defendants.

16-cv-8286 (KBF)

ORDER

KATHERINE B. FORREST, District Judge:

On November 4, 2016, plaintiff, a transportation broker, filed this breach of contract action against one of its shippers, Gray Transportation, LLC. (ECF No. 1.) After reviewing the complaint, it appears to the Court that plaintiff may not have properly pled subject matter jurisdiction, and, in any event, venue would be more appropriate in the Northern District of Indiana.

With respect to subject matter jurisdiction, although plaintiff alleges this Court has federal question jurisdiction over this action pursuant to 28 U.S.C. § 1331 because the claims asserted arise under 49 U.S.C. § 14706 and/or federal common law (id. ¶ 1), plaintiff has not pled any causes of action under federal law (see id. ¶¶ 13-14 ("Count 1 – Actual Damages").

As for venue, plaintiff does not make any specific allegations in support of venue in this District. While venue may be appropriate under 28 U.S.C. § 1391(b)(2) because plaintiff's principal place of business is in White Plains, New

York, defendant's principal place of business is in Waterloo, Indiana, and the only events referenced in the complaint concern a shipment from Donna, Texas that the recipient rejected at the point of destination in Auburn, Indiana. (Id. ¶ 5.) Under these circumstances, the Northern District of Indiana may be a more proper forum to which transfer is appropriate. See 28 U.S.C. § 1404(a) ("For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to other district or division where it might have been brought.").

Accordingly, it is hereby ORDERED that plaintiff shall file a letter not later than **Wednesday, November 30, 2016** (1) stating why the pled basis for subject matter jurisdiction is appropriate, and (2) stating whether he consents to the Court's transfer of this action to the Northern District of Indiana or why the Court should maintain venue here.

IT IS FURTHER ORDERED that plaintiff shall serve a copy of this Order, as well as his letter response, on defendant, and shall file proof of such service.

SO ORDERED.

Dated: New York, New York
November 16, 2016

K. B. Forrest

KATHERINE B. FORREST
United States District Judge